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4 ORDINANCE BY THE RACINE COUNTY ECONOMIC DEVELOPMENT AND LAND USE  
5 PLANNING COMMITTEE AMENDING OF CHAPTER 12.5, NONMETALLIC MINING  
6 RECLAMATION, RACINE COUNTY CODE OF ORDINANCES  
7

8 To the Honorable Members of the Racine County Board of Supervisors:

9  
10 The Racine County Board of Supervisors ordains as follows:  
11 Amend to read as follows:

12  
13 AMEND SEC. 12.5-7(a) as follows:

14  
15 (a) *Overall applicability.* The requirements of this chapter  
16 apply to all operators of nonmetallic mining sites within the  
17 County of Racine, ~~operating on or commencing to operate after~~  
18 ~~August 1, 2001~~ except as exempted in ~~Sec. 21~~Sec. 12.5-7(b) and for  
19 nonmetallic mining sites located in a city, village or town within  
20 the County of Racine that has adopted an ordinance pursuant to  
21 W.S.A. § 295.14, and Section NR 135.32(2), Wisconsin Administrative  
22 Code. This chapter does not apply to nonmetallic mining sites where  
23 nonmetallic mining permanently ceases ceased before August 1, 2001.  
24 This chapter applies to nonmetallic mining conducted by or on  
25 behalf of ~~the State of Wisconsin, by or on behalf of a municipality~~  
26 a county, municipality, or for the benefit or use of the state or  
27 any state agency, board, commission or department, except that the  
28 for the waiver of financial assurance requirements of in section  
29 21-14(d) 12.5-43 do not apply.  
30

31 AMEND SEC. 12.5-7(b) (7) as follows:

32  
33 (7) Nonmetallic mining at nonmetallic mining sites ~~that affects~~  
34 when less than one acre of total affected acreage occurs area over  
35 the life of the mine.  
36

37 AMEND SEC. 12.5-9. Effective date as follows:

38  
39 The provisions of this chapter shall take effect on ~~June 1, 2001~~  
40 upon publication.  
41

42 AMEND Sec. 12.5-10. Definitions as follows:

43  
44 Add the following definitions in their proper alphabetical order:

45  
46 *Highwall* means a vertical or nearly vertical face in solid  
47 rock or a slope of consolidated or unconsolidated material that  
48 exceeds a slope of 3:1.  
49

50 *Licensed professional geologist* means a person who is licensed  
51 as a professional geologist pursuant to W.S.A. §§470.  
52

53 *Person* means an individual, owner, operator, corporation,  
54 limited liability company, partnership, association, county,  
55 municipality, interstate agency, state agency or federal agency.  
56

4 DELETE the following definitions:

5 *Existing mine*

6 *Registered geologist*

7 AMEND the following definitions as follows:

8  
9  
10  
11 *Applicable reclamation ordinance* means a nonmetallic mining  
12 reclamation ordinance, including this chapter, that applies to a  
13 particular nonmetallic mining site and complies with the  
14 requirements of this Chapter NR 135, Wisconsin Administrative Code  
15 and subchapter I of Ch. 295, W.S.A., unless the Wisconsin  
16 Department of Natural Resources is the regulatory authority as  
17 defined herein ~~in subsection (20)(b)3~~. If the Wisconsin Department  
18 of Natural Resources is the regulatory authority, "applicable  
19 reclamation ordinance" means the relevant and applicable provisions  
20 of Chapter NR 135, Wisconsin Administrative Code.  
21

22 *Registered professional engineer* means a person who is  
23 registered as a professional engineer pursuant to W.S.A. §§ 443.04  
24 and ~~443.09~~.  
25

26 *Regulatory authority* means one of the following:

- 27 (1) County of Racine for nonmetallic mine sites located within  
28 its jurisdiction, or  
29  
30
- 31 (2) a. A municipality in which the nonmetallic mining site  
32 is located and which has adopted an applicable reclamation  
33 ordinance,  
34 b. the county in which the nonmetallic mining site is  
35 located, if no reclamation municipal ordinance exists pursuant  
36 to subsection a., provided the county has an applicable  
37 reclamation ordinance, or  
38 c. the Wisconsin Department of Natural Resources, in  
39 cases where a county mining reclamation program is no longer in  
40 effect under W.S.A. §§ 295.14, but only if there is no  
41 applicable reclamation ordinance enacted by the municipality or  
42 the county in which the nonmetallic mining site is located.  
43

44 AMEND Sec. 12.5-26(d) (1) as follows:

- 45 (d) *Topsoil management.*
- 46 (1) Removal. Topsoil and topsoil substitute material shall  
47 be provided removed, protected and redistributed to support  
48 reclamation and site stabilization. as specified in the  
49 reclamation plan approved pursuant to this chapter in order to  
50 achieve reclamation to the approved post-mining land use.  
51 Removal of onsite Ttopsoil and topsoil substitute material  
52 removal, when submitted in the reclamation plan, shall be  
53 performed, ~~as required by the reclamation plan,~~ prior to any  
54 mining activity associated with any specific phase of the  
55 mining operation.  
56

2  
3 REPEAL & RE-CREATE SEC. 12-5-26(e) to read as follows:

4  
5 (e) *Final grading and slopes.*

- 6  
7 (1) All areas affected by mining shall be addressed in the  
8 approved reclamation plan, pursuant to this chapter, to  
9 provide a stable and safe condition consistent with the post-  
10 mining land use is achieved. The reclamation plan may  
11 designate highwalls or other un-mined and undisturbed natural  
12 solid bedrock as stable and safe and not in need of  
13 reclamation, or designate other areas affected by mining,  
14 including slopes comprised of unconsolidated materials that  
15 exceed a 3:1 slope, whether or not graded, as stable and  
16 safe. For slopes designated as stable under this subsection,  
17 the regulatory authority may require that either: a site-  
18 specific engineering analysis be performed by a registered  
19 professional engineer to demonstrate that an acceptable slope  
20 stability factor is attainable at a steeper slope, or the  
21 operator perform a field test plot demonstration, to  
22 demonstrate that a stable and safe condition will be achieved  
23 and that the post-mining land use specified in the  
24 reclamation plan will not be adversely affected.  
25
- 26 (2) Final reclaimed slopes covered by topsoil or topsoil  
27 substitute material may not be steeper than a 3:1 horizontal  
28 to vertical incline, unless found acceptable through one or  
29 more of the following: alternative requirements are approved  
30 under Sec. 12.5-47; steeper slopes are shown to be stable  
31 through a field plot demonstration approved as part of an  
32 approved reclamation plan; or stable slopes can be  
33 demonstrated based on site-specific engineering analysis  
34 performed by a registered professional engineer. All areas  
35 in the nonmetallic mine site where topsoil or topsoil  
36 substitute material is to be reapplied shall be graded or  
37 otherwise prepared prior to topsoil or topsoil substitute  
38 material redistribution to provide optimum adherence between  
39 the topsoil or topsoil substitute material and the underlying  
40 material.  
41
- 42 (3) When the approved post-mining land use includes a body of  
43 water, the approved final grade at the edge of a body of  
44 water shall extend vertically six (6) feet below the lowest  
45 seasonal water level. A slope no steeper than 3:1 shall be  
46 created at a designated location or locations, depending on  
47 the size of the water body to allow for a safe exit.  
48  
49  
50

4 AMEND SEC. 12.5-41. Nonmetallic mining reclamation permit  
5 application as follows:

6 Sec. 12.5-41. Nonmetallic mining reclamation permit application.

7  
8 (a) Nonmetallic mining reclamation permit is required. No  
9 person may engage in nonmetallic mining or in nonmetallic mining  
10 reclamation without possessing a nonmetallic mining reclamation  
11 permit issued pursuant to this chapter, unless the activity is  
12 specifically exempted in Sec. 12.5-7 or Sec. 12-5-10.  
13

14 ~~(a)~~ (b) Required submittal. All operators of nonmetallic  
15 mining sites that operate on or after August 1, 2001 shall apply  
16 for a reclamation permit from the County of Racine. All  
17 applications for reclamation permits under this section shall be  
18 accompanied by the following information:

- 19 (1) A brief description of the general location and nature of
- 20 the nonmetallic mine.
- 21
- 22 (2) A legal description of the property on which the
- 23 nonmetallic mine is located or proposed, including the
- 24 parcel identification number.
- 25
- 26 (3) The names, addresses, and telephone numbers of all persons
- 27 or organizations who are owners or lessors of the property
- 28 on which the nonmetallic mining site is located.
- 29
- 30 (4) The name, address, and telephone number of the person or
- 31 organization who is the operator.
- 32
- 33 (5) A certification by the operator of his or her intent to
- 34 comply with the statewide nonmetallic mining reclamation
- 35 standards established by article II.
- 36
- 37 (6) Any other materials the planning and development department
- 38 may reasonably require.
- 39
- 40

41 ~~(b) Existing mines. The operator of any existing nonmetallic~~  
42 ~~mining site in operation on August 1, 2001 may apply for an~~  
43 ~~automatic reclamation permit from the County of Racine by providing~~  
44 ~~the information set forth below no later than on August 1, 2001 to~~  
45 ~~the Racine County Planning and Development Department.~~  
46

- 47 ~~(1) The information required by subsection 12.5-41(a).~~
- 48
- 49 ~~(2) The first year's annual fee, as required by section 12.5-~~
- 50 ~~70.~~
- 51
- 52 ~~(3) A certification signed by the operator that he or she will~~
- 53 ~~provide the County of Racine with a complete reclamation~~
- 54 ~~plan required by section 12.5-42 and financial assurance~~
- 55 ~~required by section 12.5-43 no later than the times~~
- 56 ~~established pursuant to this chapter.~~
- 57

4 (c) ~~New mines~~Reclamation permit application contents. The  
 5 operator of any nonmetallic mine site ~~that engages in or plans to~~  
 6 ~~engage in nonmetallic mining that will begin operations after~~  
 7 ~~August 1, 2001 or which has not applied for an automatic~~  
 8 ~~reclamation permit pursuant to subsection 12.5-41(b)~~ shall submit  
 9 an application that meets the requirements specified below to  
 10 Racine County Planning and Development Department prior to  
 11 beginning operations. ~~This application shall be accompanied by a~~  
 12 ~~plan review fee as specified in section 12.5-69.~~

- 13 (1) The information required by subsection 12.5-41(a).
- 14 (2) The plan review and annual fees required by sections 12.5-  
15 69 and 12.5-70.
- 16 (3) A reclamation plan conforming to section 12.5-42.
- 17 (4) A certification that the operator will provide, as a  
18 condition of the reclamation permit, provide financial  
19 assurance as required by section 12.5-43 upon granting of  
20 the reclamation permit and before mining begins.
- 21 (5) To avoid duplication, the permit application and  
22 submittals required under this subsection may, by  
23 reference, incorporate existing plans or materials that  
24 meet the requirements of this chapter.

25 AMEND SEC. 12.5-42(a) (1), (2) & (3) as follows:

26 Sec. 12.5-42. Reclamation Plan.

27 (a) Reclamation plan requirements. All operators who  
 28 conduct or plan to conduct nonmetallic mining of nonmetallic mining  
 29 sites subject to this chapter shall prepare and submit to the Racine  
 30 County Planning and Development Department a reclamation plan that  
 31 meets the following requirements and the reclamation standards of  
 32 Article II.

33 ~~(1) Plan required. An operator who conducts or plans to~~  
 34 ~~conduct nonmetallic mining on or after August 1, 2001~~  
 35 ~~shall submit to the County of Racine a reclamation plan~~  
 36 ~~that meets the requirements of this section and complies~~  
 37 ~~with the standards of article II. To avoid duplication,~~  
 38 ~~the reclamation plan may, by reference, incorporate~~  
 39 ~~existing plans or materials that meet the requirements of~~  
 40 ~~this chapter.~~

41 ~~(2)~~ (1) Site Information. The reclamation plan shall include  
 42 information sufficient to describe the existing natural  
 43 and physical conditions of the site, including, but not  
 44 limited to:  
 45  
 46  
 47  
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 53

4 a. Maps of the nonmetallic mining site including the  
5 general location, property boundaries, the aerial  
6 extent, geologic composition and depth of the  
7 nonmetallic mineral deposit, the distribution,  
8 thickness and type of topsoil, the location of  
9 surface waters and the existing drainage pattern,  
10 the approximate elevation of ground water, as  
11 determined by existing hydrogeologic information,  
12 In specific instances where existing  
13 hydrogeologic information is insufficient for  
14 purposes of the reclamation plan, the applicant  
15 may supplement the information with the opinion  
16 of a licensed professional geologist or  
17 hydrologist. The location of surface waters and  
18 the existing drainage patterns.

19 b. Topsoil or topsoil substitute material required  
20 to support revegetation needed for reclaiming the  
21 site to the approved post-mining land use can be  
22 identified using Racine County soil surveys or  
23 other available information, including that  
24 obtained from a soil scientist or the University  
25 of Wisconsin soil science extension agent or  
26 other available information resources.

27 ~~b.c.~~ Information available to the mine operator on  
28 biological resources, plant communities, and  
29 wildlife use at and adjacent to the proposed or  
30 operating mine sites.

31 ~~e.d.~~ Existing topography as shown on contour maps  
32 of the site at two-foot (2') contour intervals.

33 ~~d.e.~~ Location of manmade features on or near the  
34 site.

35 ~~e.f.~~ For ~~existing mines~~ proposed nonmetallic mining  
36 sites that include previously mined areas, a plan  
37 view drawing showing the location and extent of  
38 land previously affected by nonmetallic mining,  
39 including the location of stockpiles, wash ponds  
40 and sediment basins.

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4 (2) ~~(3)~~ Post-mining land use.

5 a. The reclamation plan shall specify a proposed post-mining  
6 land use for the nonmetallic mine site. The proposed post-  
7 mining land use shall be consistent with local land use  
8 plans, comprehensive plans and local zoning at the time the  
9 plan is submitted, unless a change to the land use plan or  
10 zoning is proposed. The proposed post-mining land use shall  
11 also be consistent with all applicable local, state, or  
12 federal laws in effect at the time the plan is submitted.

13  
14 b. Land used for nonmetallic mineral extraction in areas zoned  
15 under an exclusive agricultural use ordinance pursuant to  
16 W.S.A. § 91.75, shall be restored to agricultural use.

17  
18 RENUMBER SEC. 12-42(a) (4), (5) & (6) as (3), (4) & (5) respectively.

19  
20 AMEND RENUMBERED SEC. 12-5-42(a) (3)a. as follows:

21  
22 a. A description of the proposed earthwork and reclamation,  
23 including final slope angles, high wall reduction, benching,  
24 terracing and other structural slope stabilization measures,  
25 and, if necessary, a site-specific engineering analysis  
26 performed by a registered professional engineer, as provided  
27 by Sec. 12.5-26(e) (1) and (2).

28  
29 CREATE SEC. 12.5-42(a) (3)j. as follows:

30  
31 j. A description of how the reclamation plan addresses the long-  
32 term safety of the reclaimed mining site. The description  
33 shall include a discussion of site-specific safety measures  
34 to be implemented at the site and include measures that  
35 address public safety with regard to adjacent land uses.

36  
37 AMEND SEC. 12.5-42(a) (4) as follows:

38  
39 ~~(5)~~ (4) Criteria for successful reclamation.

40  
41 The reclamation plan shall contain criteria for assuring  
42 successful reclamation in accordance with subsection 12.5-26(h).

43  
44 AMEND SEC. 12.5-42(a) (5) as follows:

45  
46 ~~(6)~~ (5) Certification of reclamation plan.

47  
48  
49  
50  
51  
52

4 a. The operator shall provide a signed certification that  
 5 reclamation will be carried out in accordance with the  
 6 reclamation plan. If the operator does not own the  
 7 land, ~~T~~the landowner and lessee or lessor, if  
 8 different from the operator, shall also provide signed  
 9 certification that they concur with the reclamation  
 10 plan and will allow its implementation. ~~, except as~~  
 11 ~~provided in subsection b.~~

12 b. ~~For the following situations, the landowner and~~  
 13 ~~lessee, if different from the mine operator, are not~~  
 14 ~~required to submit a written certification in~~  
 15 ~~accordance with subsection a. The operator shall~~  
 16 ~~provide written evidence that the landowner and~~  
 17 ~~lessee, if different from the operator, have been~~  
 18 ~~provided with a written copy of the reclamation plan,~~  
 19 ~~and that:~~

20  
 21 1. ~~The mine operator has submitted a reclamation plan for~~  
 22 ~~an existing mine in accordance with subsection 12.5-~~  
 23 ~~41(b), or~~

24  
 25 2. ~~The operator has submitted a reclamation plan for a new~~  
 26 ~~or reopened mine in accordance subsection 12.5-41(e)~~  
 27 ~~which is located on land for which a lease agreement or~~  
 28 ~~memorandum of lease between the landowner and applicant~~  
 29 ~~was recorded prior August 1, 2001.~~

30  
 31 ~~(7) Approval. The operator shall keep a copy of the~~  
 32 ~~reclamation plan required by this section, once approved~~  
 33 ~~by the County of Racine under this chapter, at the mine~~  
 34 ~~site or, if not practicable, at the operator's nearest~~  
 35 ~~office or place of business.~~

36  
 37 ~~(b) Existing mines. The operator of any nonmetallic mining~~  
 38 ~~site that submits an automatic permit application in~~  
 39 ~~conformance with subsection 12.5-41(b) shall submit the~~  
 40 ~~reclamation plan required by subsection 12.5-42(a) by August~~  
 41 ~~1, 2002.~~

42  
 43 ~~(c) New mines. The operator of any nonmetallic mining site~~  
 44 ~~not in operation prior to August 1, 2001 that applies for a~~  
 45 ~~permit in conformance with subsection 12.5-41(c) shall submit~~  
 46 ~~the reclamation plan required by subsection 12.5-42(a) with~~  
 47 ~~its application for a reclamation permit.~~

48  
 49 ~~(d) (b) Existing plans and approvals. To avoid duplication~~  
 50 ~~of effort, the reclamation plan required by subsection 12.5-~~  
 51 ~~42(a) may, by reference, incorporate existing plans or~~  
 52 ~~materials that meet the requirements of this chapter. Previous~~  
 53 ~~approvals for nonmetallic mining sites in operation on~~



2  
3 ~~August 1, 2001 shall satisfy the requirements of subsection~~  
4 ~~12.5-42(a) if they meet the following requirements:~~

5  
6 ~~(1) The document has been approved by a county or~~  
7 ~~municipality; and~~

8  
9 ~~(2) The planning and development committee finds that the~~  
10 ~~document designates a post-mining land use and~~  
11 ~~describes reclamation measures that meet the~~  
12 ~~reclamation standards of this chapter.~~

13  
14 ~~(e) (c) Approval of reclamation plan.~~ The planning and  
15 development committee shall approve, conditionally approve or  
16 deny the reclamation plan submitted under this section in  
17 writing in accordance with subsection ~~12.5-45(e)(3) for~~  
18 ~~existing mines and subsection 12.5-45(d) 12.5-45(a)~~ for mines  
19 that apply for a reclamation permit in conformance with this  
20 chapter. Conditional approvals of reclamation plans shall be  
21 made according to subsection 12.5-45(d) and denials of  
22 reclamation plans shall be made pursuant to section 12.5-46.  
23 The operator shall keep a copy of the reclamation plan  
24 approved under this subsection at the mine site or, if not  
25 practicable, at the operator's nearest place of business.

26  
27 DELETE SEC. 12.5-43(b)

28  
29 RENUMBER SEC. 12.5-43(c) & (d) as (b) & (c)

30  
31 AMEND RENUMBERED SEC. 12.5-43(b) as follows:

32  
33 ~~(b) (e) New Private nonmetallic mines.~~ The operator of any  
34 nonmetallic mining site that applies for a reclamation permit in  
35 conformance with subsection 12.5-41(c) shall submit the proof of  
36 financial assurance required by subsection 12.5-43(a) as  
37 specified in the reclamation permit issued to it under this  
38 chapter.

39  
40 ~~(c) (d) Public nonmetallic mining.~~ The financial assurance  
41 requirements of this section do not apply to nonmetallic mining  
42 conducted by the State of Wisconsin, a state agency, board,  
43 commission or department, or a municipality.

44  
45 REPEAL & RE-CREATE SEC. 12.5-44 to read as follows:

46  
47 Sec. 12.5-44. Public notice and right of hearing.

48  
49 (a) *Reclamation plan hearing.* The County of Racine shall provide  
50 public notice and the opportunity for a public informational  
51 hearing as set forth below:  
52

4 (1) *Public notice.*

- 5 a. When the County of Racine receives a complete  
6 nonmetallic mining reclamation permit application  
7 that satisfies subsection 12.5-41(c), it shall  
8 publish a public notice of the application no later  
9 than thirty (30) days after receipt.
- 10  
11 b. The notice shall briefly describe the mining and  
12 reclamation planned at the nonmetallic mining site.  
13 The notice shall be published as a class 1 notice  
14 pursuant to W.S.A. § 985.07(1), in the official  
15 newspaper of the County of Racine. The notice shall  
16 mention the opportunity for public hearing pursuant  
17 to this section and shall give the locations at which  
18 the public may review the application and all  
19 supporting materials including the reclamation plan.
- 20  
21 c. Copies of the notice shall be forwarded by the County  
22 of Racine to the county or applicable municipal  
23 zoning board, the county and applicable local  
24 planning organization, the county land conservation  
25 officer, and owners of land within three hundred  
26 (300) feet of the boundaries of the parcel or parcels  
27 of land on which the site is located.

28  
29 (2) *Hearing.* The County of Racine shall provide for an  
30 opportunity for a public informational hearing on an  
31 application or request to issue a nonmetallic mining  
32 reclamation permit as follows.

- 33  
34 a. If it conducts a zoning related hearing on the  
35 nonmetallic mine site, the County of Racine shall  
36 provide the opportunity at this hearing to present  
37 testimony on reclamation-related matters. This  
38 opportunity shall fulfill the requirement for public  
39 hearing for a nonmetallic mining reclamation permit  
40 required by this section. The planning and  
41 development committee shall consider the reclamation-  
42 related testimony in the zoning-related hearing in  
43 deciding on a permit application pursuant to this  
44 chapter.
- 45  
46 b. 1.If there is no opportunity for a zoning related  
47 hearing on the nonmetallic mine site as described in  
48 subsection a. above, opportunity for public hearing  
49 required by this section shall be provided as  
50 follows. Any person residing within, owning property  
51 within, or whose principal place of business is  
52 within three hundred (300) feet of the boundary of  
53 the parcel or parcels of land in which the  
54 nonmetallic mining site is located or proposed may  
55 request a public informational hearing. The

4 planning and development committee shall hold a public  
 5 hearing if requested by any of these persons within 30  
 6 days of the actual date of public notice under  
 7 subsection 12.5-44(a)(1). This public informational  
 8 hearing shall be held no sooner than thirty (30) days  
 9 nor later than sixty (60) days after being requested.  
 10 The hearing shall be conducted as an informational  
 11 hearing for the purpose of explaining and receiving  
 12 comment from affected persons on the nature,  
 13 feasibility, and effects of the proposed reclamation.  
 14 The hearing shall be before the planning and  
 15 development committee of Racine County at its regularly  
 16 scheduled public hearing. The procedures used for the  
 17 planning and development committee's regularly  
 18 scheduled public hearing shall apply.

19 2. The subject matter and testimony at this informational  
 20 hearing shall be limited to reclamation of the  
 21 nonmetallic mine site.

22  
 23 (b) *Local transportation-related mines.* No public  
 24 notice or informational hearing is required for a  
 25 nonmetallic mining reclamation permit issued to a local  
 26 transportation-related mine pursuant to section 12.5-  
 27 45(b).

28  
 29 (Ord. No. 2001-8, 5-22-01)

30  
 31 REPEAL & RE-CREATE SEC. 12.5-45 to read as follows:

32  
 33 Sec. 12.5-45. Issuance of a nonmetallic mining reclamation permit.

34 No person may engage in nonmetallic mining or nonmetallic  
 35 mining reclamation in Racine County without first obtaining a  
 36 reclamation permit issued under this section, except for  
 37 nonmetallic mining sites that are exempt from this Chapter under  
 38 Sec. 12.5 - 7 or Sec. 12.5-10.

39  
 40 (a) *Permit required.* Applications for reclamation permits  
 41 for nonmetallic mining sites that satisfy subsection 12.5-41(c)  
 42 shall be issued a reclamation permit or otherwise acted on as  
 43 provided below.

44  
 45 (1) Unless denied pursuant to sec. 12.5-46, the County of  
 46 Racine shall approve in writing a request that satisfies  
 47 the requirements of subsection 12.5-41(c) to issue a  
 48 nonmetallic mining reclamation permit for the proposed  
 49 nonmetallic mine.  
 50  
 51  
 52  
 53

4 (2) The County of Racine may not issue an approval without  
5 prior or concurrent approval of the reclamation plan that  
6 meets the requirements of section 12.5-42. The regulatory  
7 authority may issue a reclamation permit subject to  
8 conditions in subsection 12.5-45(d) if appropriate. The  
9 permit decision shall be made no sooner than thirty (30)  
10 days nor later than ninety (90) days following receipt of  
11 the complete reclamation permit application and  
12 reclamation plan pursuant to this subchapter, unless a  
13 public hearing is held pursuant to section 12.5-44. If a  
14 public hearing is held, the regulatory authority shall  
15 issue the reclamation permit, subject to conditions  
16 pursuant to subsection 12.5-45(d) if appropriate, or  
17 shall deny the permit as provided in section 12.5-46, no  
18 later than sixty (60) days after completing the public  
19 hearing.

20  
21 (3) Permits issued pursuant to this subsection shall require  
22 compliance with a reclamation plan that has been approved  
23 and satisfies the requirements of section 12.5-42 and  
24 provision by the applicant of financial assurance  
25 required under section 12.5-43 and payable to the County  
26 of Racine prior to beginning mining.

27  
28 (b) *Automatic permit for local transportation-related mines.*

29  
30 (1) The County of Racine shall automatically issue an  
31 expedited permit under this subsection to any borrow site  
32 that:

33  
34 a. Will be opened and reclaimed under contract with a  
35 municipality within a period not exceeding thirty-six  
36 (36) months;

37  
38 b. Is a nonmetallic mine which is intended to provide  
39 stone, soil, sand or gravel for the construction,  
40 reconstruction, maintenance or repair of a highway,  
41 railroad, airport facility or other transportation  
42 facility under contract with the municipality;

43  
44 c. Is regulated and will be reclaimed under contract with  
45 the municipality in accordance with the requirements  
46 of the Wisconsin Department of Transportation  
47 concerning the restoration of nonmetallic mining  
48 sites;

4 d. Is not a commercial source;

5 e. Will be constructed, operated and reclaimed in  
6 accordance with applicable zoning requirements, if  
7 any and;

8  
9 f. Is not otherwise exempt from the requirements of this  
10 chapter under subsection 12.5-7(b) (10).

11  
12 (2) In this subsection, "municipality" has the meaning  
13 defined in W.S.A. § 299.01(8).

14  
15 (3) Automatic permits shall be issued under this subsection in  
16 accordance with the following provisions:

17  
18 a. The applicant shall notify the County of Racine of the  
19 terms and conditions of the contract with respect to  
20 reclamation of the proposed borrow site.

21  
22 b. The applicant shall provide evidence to the County of  
23 Racine to show that the borrow site and its reclamation  
24 will comply with applicable zoning requirements, if  
25 any.

26  
27 c. The County of Racine shall accept the contractual  
28 provisions incorporating requirements of the Wisconsin  
29 Department of Transportation in lieu of a reclamation  
30 plan under section 12.5-42.

31  
32 d. The County of Racine shall accept the contractual  
33 provisions in lieu of the financial assurance  
34 requirements in section 12.5-43.

35  
36 e. The public notice and hearing provisions of section  
37 12.5-44 do not apply to nonmetallic mining sites that  
38 are issued automatic permits under this subsection.

39  
40 f. Mines permitted under this subsection shall pay an  
41 annual fee to the County of Racine as provided in  
42 section 12.5-70, but shall not be subject to the plan  
43 review fee provided in section 12.5-69. The total  
44 annual fee, including the share of the Department of  
45 Natural Resources, shall not exceed the amount in Table  
46 2, NR 135.39.

47  
48 g. The County of Racine shall issue the automatic permit  
49 within seven (7) days of the receipt of a complete  
50 application.  
51  
52  
53  
54  
55

4 h. If the borrow site is used to concurrently supply  
5 materials for other than the local transportation  
6 project, the automatic permitting in this subsection  
7 still applies provided the site will be reclaimed under  
8 a contractual obligation with the municipality in  
9 accordance with the Wisconsin Department of  
10 Transportation requirements.

11 i. Notwithstanding section 12.5-68, the operator of a  
12 borrow site under this subsection is required to submit  
13 only the information in an annual report necessary to  
14 identify the borrow site and to determine the  
15 applicable annual fee.

16  
17 (c) *Expedited review.* Any operator of a nonmetallic mining site  
18 may request expedited review of a reclamation permit application  
19 under subsection (1) or subsection (2) as follows:  
20

21 (1) The operator may submit a request for expedited permit  
22 review with payment of the expedited review fee specified  
23 in subsection 12.5-69(b). This request shall state the need  
24 for such expedited review and the date by which such  
25 expedited review is requested.

26  
27 (2) The operator may submit a request for expedited review  
28 under this subsection if the applicant requires a  
29 reclamation permit to perform services under contract with  
30 a municipality. This request for expedited review shall  
31 state the need for expedited review and shall include a  
32 copy of the applicable sections of the contract and the  
33 date by which the expedited review is requested.

34  
35 (3) Following receipt of a request under this subsection, the  
36 County of Racine shall inform the applicant of the  
37 estimated date for decision on issuance of the permit. If  
38 the applicant then elects not to proceed with the expedited  
39 review, the fee paid under subsection (1) shall be  
40 returned.

41  
42 (4) Expedited review under this subsection shall not waive,  
43 shorten, or otherwise affect the public notice and right of  
44 hearing pursuant to section 12.5-44. This subsection does  
45 not impose an obligation upon the regulatory authority to  
46 act upon a permit application under this subsection by a  
47 specific date.

48  
49 (d) *Permit conditions.* Any decision under this section may  
50 include conditions as provided below:  
51  
52  
53  
54  
55  
56

- 1  
2  
3 (1) The County of Racine may issue a reclamation permit or  
4 approve a reclamation plan subject to general or site-  
5 specific conditions if needed to assure compliance with the  
6 nonmetallic mining reclamation requirements of this  
7 chapter. The approvals may not include conditions that are  
8 not related to reclamation.  
9
- 10 (2) One required condition of the issued permit shall be that  
11 the new mine obtain financial assurance pursuant to section  
12 12.5-43 before beginning mining.  
13

14 AMEND SEC. 12.5-68(a) (2) as follows:  
15

- 16 (2) *Deadline.* The annual report shall cover activities on  
17 unreclaimed acreage for the previous ~~for a calendar year~~  
18 ~~and be submitted within sixty (60) days following the end~~  
19 ~~of the year~~ by January 31.  
20

21 AMEND SEC. 12.5-69(a) as follows:  
22

- 23 (a) *Amount and applicability.* A person who intends to operate  
24 a nonmetallic mining site for which a permit application  
25 has been submitted under subsection 12.5-41(c) shall submit  
26 a non-refundable plan review required by the schedule of  
27 fees adopted by the Racine County Board of Supervisors. The  
28 fee schedule may be adopted by resolution or through the  
29 adoption of the county executive budget. No plan review fee  
30 may be assessed under this section ~~for any existing~~  
31 ~~nonmetallic mine site for which an application for an~~  
32 ~~automatic reclamation permit is submitted that meets the~~  
33 ~~requirements of subsection 12.5-41(b) or for any local~~  
34 transportation-related mining receiving an automatic permit  
35 under subsection 12.5-45(b). A separate plan review fee  
36 shall be paid under this section for any modification to an  
37 existing reclamation plan submitted pursuant to section  
38 12.5-66.  
39

40 AMEND SEC. 12.5-70 Annual fees follows:  
41

42 (a) *Areas subject to fees, procedures, and deadline, and*  
43 amounts.  
44

- 45 (1) Operators of all nonmetallic mining sites subject to  
46 reclamation permits issued under this chapter shall pay  
47 annual fees to the County of Racine. ~~Fees paid under this~~  
48 ~~section shall include both a share for the Wisconsin~~  
49 ~~Department of Natural Resources under subsection 12.5-70(b)~~  
50  
51

4 ~~and a share for the County of Racine under subsection 12.5-~~  
5 ~~70(c) that equals as closely as possible the costs of~~  
6 ~~examination and approval of nonmetallic mining reclamation~~  
7 ~~plans and the inspection of nonmetallic mining sites.~~

8 (2) Fees paid under this section shall be calculated based on  
9 the unreclaimed acres of a nonmetallic mining site, as  
10 defined below:

11  
12 a. "Unreclaimed acre" or "unreclaimed acres" means those  
13 unreclaimed areas in which nonmetallic mining has  
14 occurred after August 1, 2001 and areas where  
15 nonmetallic mining reclamation has been completed but  
16 is not yet certified as reclaimed under subsection  
17 12.5-43(a)(7). However, the term does not include any  
18 areas described in subsection b.

19  
20 b. "Unreclaimed acre" or "unreclaimed acres" does not  
21 include:

22  
23 1. Those areas where reclamation has been completed  
24 and certified as reclaimed under subsection 12.5-  
25 43(a)(7).

26  
27 2. Those areas previously affected by nonmetallic  
28 mining but which are not used for nonmetallic  
29 mining after August 1, 2001.

30  
31 3. Those portions of nonmetallic mining sites that  
32 are included in an approved nonmetallic mining  
33 reclamation plan but are not yet affected by  
34 nonmetallic mining.

35  
36 4. Areas previously mined but used after August 1,  
37 2001, for a non-mining activity, such as  
38 stockpiling of materials used for an industrial  
39 activity such as an asphalt plant, concrete batch  
40 plant, block and tile operation or other industry  
41 that uses products produced from nonmetallic  
42 mining.

43  
44 5. Those areas within a nonmetallic mining site which  
45 ~~the regulatory authority has~~ have been determined  
46 to have been successfully reclaimed on an interim  
47 basis in accordance with subsections 12.5-72(b)  
48 and (c).  
49  
50



6. Those areas defined as not included in a nonmetallic mining site under subsection 12.5-10.

(3) Fees shall be assessed on active acres only and shall not be assessed on acreage where nonmetallic mining is proposed and approved, but where no nonmetallic mining has yet taken place.

~~(3)~~ (4) Fees assessed pursuant to this section shall be based on unreclaimed acres at the end of the year. Such fees apply to a calendar year or any part of a year in which nonmetallic mining takes place, until final reclamation is certified as complete under section 12.5-72. Fees shall be paid no later than December ~~January~~ 31 for the subsequent previous year.

~~(4) For new or reopened mines that submit a reclamation permit application under subsection 12.5-41(c), the first year's annual fee shall be based upon the unreclaimed acres that are anticipated at the end of that calendar year. Such fee may be prorated based upon the number of months remaining in the year in which the application is received.~~

(5) If reclamation has already occurred on portions of a nonmetallic mining site, the fees for such portions may be submitted with a request that they be held by the County of Racine pending certification of completed reclamation pursuant to subsection 12.5-43(a)(7). Upon such certification, the County of Racine shall refund that portion of the annual fee that applies to the reclaimed areas. If the County of Racine fails to make a determination under subsection 12.5-43(a)(7) within sixty (60) days of the request, it shall refund that portion of the annual fee that applies to the reclaimed areas.

(6) The amount collected shall equal the Wisconsin Department of Natural Resources' share as described in Table 1, NR 135.39, as adopted by the Racine County Board of Supervisors under separate resolution, the share of the County of Racine as adopted by separate resolution and, if applicable, the reclamation plan review fee likewise adopted.

4 (b) *Wisconsin Department of Natural Resources share of fee.*

5 (1) Fees paid under this section shall, except where provided  
6 in subsection (2), include a share for the Wisconsin Department  
7 of Natural Resources equal to the amount specified in ~~Table 1.~~  
8 ~~For sites on which no nonmetallic mining has taken place during~~  
9 ~~a calendar year, fees to be paid under this section for the~~  
10 ~~following year shall be fifteen dollars (\$15.00). NR 135.39, as~~  
11 ~~adopted by the Racine County Board of Supervisors by separate~~  
12 ~~resolution.~~

13  
14 TABLE 1:

15  
16 ~~Wisconsin Department of Natural Resources' Share of Annual~~  
17 ~~Fees Collected by the County of Racine~~

<del>Mine Size in Unreclaimed Acres, Rounded to the Nearest Whole Acre</del>	<del>Annual Fee</del>
<del>1 to 5 acres [does not include mines less than 1 acre]</del>	<del>\$30</del>
<del>6 to 10 acres</del>	<del>\$60</del>
<del>11 to 15 acres</del>	<del>\$90</del>
<del>16 to 25 acres</del>	<del>\$120</del>
<del>26 to 50 acres</del>	<del>\$140</del>
<del>51 acres or larger</del>	<del>\$150</del>

19  
20 (2) For nonmetallic mining sites at which no nonmetallic  
21 mining has taken place during a calendar year, the share  
22 for the Wisconsin Department of Natural Resources shall be  
23 fifteen dollars (\$15.00).

24  
25 (3) The County of Racine shall forward fees collected under  
26 this subsection of the Wisconsin Department of Natural  
27 Resources by March 31 ~~of the year for which they were~~  
28 ~~collected.~~

29  
30 (c) *The County of Racine's share of fee.* Fees paid under this  
31 section shall also include an annual fee due to Racine County,  
32 which shall be required by the schedule of fees adopted by the  
33 Racine County Board of Supervisors. The fee schedule may be adopted  
34 by resolution or through the adoption of the county executive  
35 budget.  
36  
37

AMEND SEC. 12.5-71(a). Regulatory reporting and documentation as follows:

(a) *Reporting.* The County of Racine shall send an annual report to the Wisconsin Department of Natural Resources by March 31 ~~of each~~ for the previous calendar year. The reports shall include the following information for the previous year's nonmetallic mining reclamation program:

- (1) The total number of nonmetallic mining reclamation permits in effect.
- (2) The number of new permits issued within the jurisdiction of the County of Racine.
- (3) The number of acres approved for nonmetallic mining and the number of acres newly approved in the previous year.
- (4) The number of acres being mined or unreclaimed acres.
- (5) The number of acres that have been reclaimed and have had financial assurance released pursuant to subsection 12.5-43(a)(7).
- (6) The number of acres that are reclaimed and awaiting release from the financial assurance requirements of this subchapter pursuant to subsections 12.5-72(a) and (b).
- (7) The number and nature of alternative requirements granted, permit modifications, violations, public hearings, and enforcement actions, penalties that have been assessed and bond or financial assurance forfeitures.

AN ORDINANCE TO AMEND that Certain Ordinance Entitled RACINE COUNTY ZONING ORDINANCE adopted December 2, 1969, found on pages 185 to 232 of the OFFICIAL PROCEEDINGS OF THE RACINE COUNTY BOARD OF SUPERVISORS FOR THE YEAR 1969 as recodified May 28, 1991, by Ordinance 91-196.

The Racine County Clerk is directed to transmit duplicate copies of this ordinance by registered mail to all affected Town Clerks within seven (7) days after this ordinance is adopted.

4 Respectfully submitted,  
5 ECONOMIC DEVELOPMENT & LAND USE PLANNING COMMITTEE

6  
7  
8  
9  
10 \_\_\_\_\_  
11 Jeff Halbach, Chair

10 \_\_\_\_\_  
11 Robert D. Grove, Vice Chair

12  
13  
14 \_\_\_\_\_  
15 Q. A. Shakoor, II, Secretary

14 \_\_\_\_\_  
15 Karen A. Nelson

16  
17  
18 \_\_\_\_\_  
19 Mark M. Gleason

18 \_\_\_\_\_  
19 Ken Hall

20  
21  
22 \_\_\_\_\_  
23 Thomas Pringle

24  
25 VOTE REQUIRED: MAJORITY

25 BOARD ACTION:

26  
27 1st Reading \_\_\_\_\_

27 Adopted \_\_\_\_\_

28 For \_\_\_\_\_

29 2nd Reading \_\_\_\_\_

29 Against \_\_\_\_\_

30 Absent \_\_\_\_\_

31  
32  
33  
34 The Certificate of Publication, in compliance with State Statutes,  
35 is available at Racine County Planning.

36  
37 FISCAL NOTE - NOT APPLICABLE  
38  
39